

Minutes

Planning Committee 7th November 2023



Present

Councillors	Present	Councillors	Present
J Abbott	Yes	A Hooks	Yes
J Beavis	Yes (from 7.16pm)	A Munday	Yes
L Bowers-Flint	Yes	I Parker (Chairman)	Yes
T Diamond	Yes	F Ricci	Yes
M Fincken	Apologies	P Schwier	Yes
J Hayes	Apologies	G Spray	Apologies
D Holland	Yes		

Substitutes

Councillor K Bowers attended the meeting as a substitute for Councillor J Hayes.
Councillor M Thorogood attended the meeting as a substitute for Councillor M Fincken.

35 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:-

Councillor J Abbott declared a Non-Pecuniary Interest in Application No. 23/00737/REM – Land North of Woodend Farm, Hatfield Road, Witham as he had campaigned to save an elm tree on Hatfield Road, Witham, which was referred to in the Agenda report but was not within the red line delineation of the application. Councillor Abbott stated that he had not made any public comment as to whether he was for or against the application.

Councillor T Diamond declared a Non-Pecuniary Interest in Application No. 23/00737/REM – Land North of Woodend Farm, Hatfield Road, Witham as Councillor J Coleman, who had registered to speak about the application during Question Time on behalf of Witham Town Council was known to him. Councillor Diamond stated that he had not discussed the application with Councillor Coleman. Councillor Diamond abstained from voting on this application.

Councillor A Hooks declared a Non-Pecuniary Interest in Application No. 23/00737/REM – Land North of Woodend Farm, Hatfield Road, Witham as her step-brother was a director of Phase 2 Planning, the agent for the application. Councillor

Hooks stated that her step-brother had not been involved with the application and that she had not discussed it with him.

Councillor M Thorogood declared a Non-Pecuniary Interest in Application No. 23/00737/REM – Land North of Woodend Farm, Hatfield Road, Witham as Councillor J Coleman, who had registered to speak about the application during Question Time on behalf of Witham Town Council was known to her. Councillor Thorogood did not speak when the Committee discussed the application and she abstained from voting on the application.

Councillor Thorogood declared a Non-Pecuniary Interest also in Application No. 23/00738/OUT – Land rear of 231 Witham Road, Black Notley as the applicant was known to her. Councillor Thorogood did not speak when the Committee discussed the application and she abstained from voting on the application.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the applications were considered.

36 **MINUTES**

DECISION: It was reported that the Minutes of the meeting of the Planning Committee held on 17th October 2023 were not available for approval.

37 **QUESTION TIME**

INFORMATION: There were three statements made about the following application/item. The statements were made immediately prior to the Committee's consideration of each application/item.

Application No. 23/00737/REM – Land North of Woodend Farm, Hatfield Road, Witham
Item 7 - Tree Preservation Order 06 2023 - 3 The Mall, London Road, Braintree

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

38 **PLANNING APPLICATION WITHDRAWN FROM THE AGENDA**

INFORMATION: The Committee was advised that the under-mentioned planning application had been withdrawn from the Agenda. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*22/02499/FUL (WITHDRAWN FROM AGENDA)	Braintree	Mr Paul Bartholomew, LPB Homes Limited	Erection of 2 No. 2-bedroom bungalows, 6 No. two-storey 3-bedroom dwellings and 1

			No. two-storey 4-bedroom dwelling, together with associated off-street car parking, land rear of Harkilees Way.
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39 **PLANNING APPLICATION APPROVED**

DECISION: That the undermentioned planning application be approved under the Town and Country Planning Act 1990, including Listed Building Consent where appropriate, subject to the conditions and reasons contained in the Planning Development Manager’s report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/00737/REM (APPROVED)	Witham	Mr W Wood	Application for the approval of Reserved Matters (Infrastructure) (Access, Appearance, Landscaping, Layout and Scale) for the installation of the Spine Road with associated footpaths, cycleways and bus turning head, linking into the approved access works at Hatfield Road to the south pursuant to outline application 19/01896/OUT approved on 21.07.2022 for up to 400 residential dwellings and day nursery with all associated access, servicing, parking, drainage infrastructure, landscaping, open space and utilities infrastructure, land North of Woodend Farm, Hatfield Road.

40 **PLANNING APPLICATION REFUSED**

DECISION: That the undermentioned planning application be refused for the reasons contained in the Planning Development Manager’s report. Details of this planning application are contained in the Register of Planning Applications.

<u>Plan No.</u>	<u>Location</u>	<u>Applicant(s)</u>	<u>Proposed Development</u>
*23/00738/OUT (REFUSED)	Black Notley	Mr Douglas Chapman	Outline planning application with all matters reserved, except access, for up to 13 residential units (Use Class C3), associated car parking, landscaping and ancillary works and infrastructure. Access to be directly off Witham Road, land rear of 231 Witham Road.

Members of the Planning Committee were advised that an appeal had been lodged with the Planning Inspectorate against the non-determination of this application and that the Local Planning Authority could not determine it.

The Planning Committee agreed that if it had been able to determine the application it would have been refused for the Reasons contained in the Planning Development Manager's report. The Reasons for Refusal are as follows:-

Reasons for Refusal

- 1 The proposed development is located outside of any settlement boundary. In such locations, only proposals that are compatible with and appropriate to the countryside will be permitted. The proposal is not one of those forms of development and therefore represents an encroachment into the countryside and an unacceptable form of urbanisation to the detriment of the character and appearance of the area. Furthermore, the lack of adequate measures for landscape mitigation around the boundaries to the site would exacerbate this harm given the location of the site in this edge of settlement location. The proposal is therefore contrary to the National Planning Policy Framework, and Policies SP1, SP3, SP7, LPP1 and LPP52 of the Adopted Braintree District Local Plan (2013-2033).
- 2 The access road for the proposed development, which would be located in between 229 and 231 Witham Road, would result in an unacceptable level of vehicular movements which would have a harmful impact upon the living conditions of the occupants of these properties in terms of noise and general disturbance and would be harmful to their general residential amenity. The proposal would therefore be contrary to the National Planning Policy Framework, and Policy LPP52 of the Adopted Braintree District Local Plan (2013-2033).
- 3 The proposal fails to demonstrate that 13no. units can be accommodated on the site in a satisfactory manner to ensure the development would be sympathetic to

local character, including the landscape setting, and would fail to secure a good level of amenity for existing and future occupiers in terms of outlook and privacy. The scheme is therefore contrary to the National Planning Policy Framework, Policy LPP52 of the Adopted Braintree District Local Plan (2013-2033), and the Essex Design Guide.

4 The application was not accompanied by any supporting drainage information. In the absence of this drainage information, the proposal is contrary to Policy LPP76 of the Adopted Braintree District Local Plan (2013-2033) which requires that all new development of 10 dwellings or more and major commercial development, car parks and hard standings will incorporate Sustainable Drainage Systems (SuDs) appropriate to the nature of the site.

5 The proposed development would trigger the requirement for:

- A commuted sum of £523,250 in lieu of on-site provision of affordable housing;
- Financial contribution towards increasing capacity for the benefit of patients of the primary care network operating in the area. This may be achieved through any combination of extension, reconfiguration, or relocation of premises and/or clinical staff recruitment, or training;
- The provision, maintenance and delivery of on-site amenity space;
- Financial contribution towards outdoor sports and allotments;
- Financial contribution towards off-site management measures for the Blackwater Estuary SPA and Ramsar site;
- Refuse vehicle access.

These requirements would need to be secured through a Section 106 planning obligation. At the time of issuing this decision no agreement or unilateral undertaking had been prepared or completed. As such the proposal is contrary to Policy LPP78 of the Adopted Braintree District Local Plan (2013-2033), and the Open Space Supplementary Planning Document (SPD).

41 **TREE PRESERVATION ORDER NO. 04 2023 – 1 FOUNDRY LANE, EARLS COLNE**

INFORMATION: Consideration was given to a report on Tree Preservation Order No. 04 2023 relating to land at 1 Foundry Lane, Earls Colne to which an objection had been submitted. The Order had been made on 22nd May 2023 in respect of a Pine tree (T1) situated at 1 Foundry Lane, Earls Colne. The tree and property were within the Earls Colne Conservation Area.

The Order had been served following the submission of an application (22/00555/TPOCON) by Mr T Beadle to fell the tree. In response to the application, the Council's Tree and Landscape Officer had visited the site and he had viewed the tree from publicly accessible areas. An assessment of the amenity value of the tree had been carried out by the Officer using the standard TEMPO assessment, which had shown that the making of an Order was appropriate. This assessment was

attached at Appendix 2 to the Agenda report. It was considered that the tree had high amenity value, that it contributed significantly to the local landscape and that it should be retained. A provisional Tree Preservation Order (01/2022/TPO) had been served on 19th April 2022, but it had subsequently lapsed on 19th October 2022. The provisional Tree Preservation Order had subsequently been re-served under the reference number 04 2023. A copy of the Order was attached at Appendix 1 to the Agenda report.

An objection had been lodged against the making of the Order by Mr T Beadle and Mrs A Beadle of 1 Foundry Lane, Earls Colne. A copy of the objection was attached at Appendix 4 to the Agenda report. Mr and Mrs Beadle stated that the tree was a woodland tree, which was not native and that its needles and cones were causing a nuisance. Bird faeces falling onto the adjacent pavement were also causing issues for people passing by. Mr and Mrs Beadle had also highlighted that the branches of the tree had to be trimmed regularly to provide clearance for a telephone wire which was within the vicinity.

It was reported that the tree was very visible from publicly accessible areas along the High Street, Massingham Drive and Foundry Lane, Earls Colne and also from adjacent properties. The tree, which was estimated to be over 70 years old, had a balanced form typical of its species and it appeared to be in good condition. It was considered that the tree had great amenity value, that its height and form made it a focal point, and that it contributed to the local landscape. It was acknowledged that the making of a Tree Preservation Order did not exclude maintenance works being carried out to a preserved tree subject to prior consent being obtained.

DECISION: That Tree Preservation Order No. 04 2023 relating to 1 Foundry Lane, Earls Colne be confirmed in the interests of amenity.

42 **TREE PRESERVATION ORDER NO. 06 2023 – 3 THE MALL, LONDON ROAD, BRAINTREE**

INFORMATION: Consideration was given to a report on Tree Preservation Order No. 06 2023 relating to 3 The Mall, London Road, Braintree to which objections had been submitted. The Order had been made on 22nd May 2023 in respect of an area of Oak trees (A1) mostly along the South and East boundaries at 3 The Mall, London Road, Braintree. The Order had been served on the owner of the land and neighbours.

It was reported that an outline planning application for up to 9 residential units on land at the rear of 3 The Mall, London Road, Braintree (App. No. 23/00651/OUT) had been submitted on 8th March 2023 by Mr J Firth of Frazer Halls Associates on behalf of JVIL (London Road) Ltd. A Tree Survey and Arboricultural Impact Assessment prepared by Underhill Tree Consultancy had been submitted with the application and it had identified one Category A (high) value tree, 21 trees of Category B (moderate) value, 26 trees and 1 group of Category C (low) value, and 3 trees of Category U (unsuitable for retention) value. The Assessment proposed that 12 trees should be

removed to allow for development to take place. One of these trees was Category B, 10 were Category C, and one was Category U.

In response to the Assessment, the Council had considered it expedient to make a Tree Preservation Order to protect the trees on the site on the basis that they contributed significantly to the local landscape and had high amenity value. The consequent Tree Preservation Order (06 2023) had been made on the basis of an Area, with the intention that the Order should be varied at a later stage to include individual trees.

Objections to the making of the Order had subsequently been lodged by Mr D Fugeman of 3 The Mall, London Road, Braintree; Mr J Firth of Frazer Halls Associates and Mr G Underhill of Underhill Tree Consultancy on behalf of JVIL (London Road) Ltd; and by Mr E Warne of 173 London Road, Braintree. The letters of objection were attached at Appendix 4 to the Agenda report. Site meetings had also taken place between the objectors and Council Officers to discuss the Order.

Whilst it was the Council's standard procedure to carry out a TEMPO assessment of a tree(s) before making a Tree Preservation Order, it had not been possible in this case due to several constraints. In the circumstances, an Order had been made to protect an Area of trees. However, it was proposed that a TEMPO assessment should be carried out in order to define the boundaries of the site and to identify the number and species of individual trees on the site. Trees that were deemed to suitable for protection would be included within the Order which would be varied as appropriate.

It was reported that the trees protected by Tree Preservation Order 06 2023 were visible from publicly accessible areas and it was considered that they provided a gentle background and frame to the houses along London Road. It was considered that the trees had significant amenity value and that they provided an important contribution to the sense of place and local character. It was noted that land to the east of The Mall had been designated as a strategic development site within the Adopted Braintree District Local Plan and that the preserved trees would provide screening and separation between built areas. It was acknowledged that the making of a Tree Preservation Order did not exclude maintenance works being carried out to a preserved tree subject to prior consent being obtained.

It was reported that if planning permission was granted for the development of land at the rear of 3 The Mall, London Road, Braintree, including explicit or implicit permission to fell or carry out works to a tree, it would be impractical to issue a Tree Preservation Order for that tree as the planning permission would take precedence rendering an Order ineffective.

It was noted that during a site meeting held on 5th June 2023 between Mr Fugeman, Mr Firth, Mr Underhill and Council Officers discussion had taken place regarding the removal of some trees from the Tree Preservation Order. Specifically, trees identified as being Category U; two willows (T50 and T51); and a few Oak trees

exhibiting a significantly one-sided shape or heavy lean (e.g. T8, T12, T15) had been highlighted. The exact number of trees to be removed from the Order would be determined once the TEMPO assessment had been completed.

DECISION: That Tree Preservation Order No. 06 2023 relating to land at 3 The Mall, London Road, Braintree, as varied following the completion of a TEMPO assessment of the trees located on the land, be confirmed in the interests of amenity.

PLEASE NOTE: The full list of standard conditions and reasons can be viewed at the office of the Planning Development Manager, Council Offices, Causeway House, Bocking End, Braintree, Essex CM7 9HB.

(Where applications are marked with an * this denotes that representations were received and considered by the Committee).

The meeting closed at 8.25pm.

Councillor I Parker
(Chairman)